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THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of	:	
Andrys et al.	:	ON PETITION
Application No. 10/691,115	:	
Filed: October 21, 2003	:	
Attorney Docket No. SK00002C1	:	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed January 23, 2008.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)." **Failure to respond will result in abandonment of the application.**

Petitioner has supplied a copy of the declaration from Application No. 09/693,398. However, petitioner has not supplied a copy of a decision granting the petition under 37 CFR 1.47 filed in Application No. 09/693,398.

Petitioner states that petitioner is unable to locate a copy of the decision granting the Rule 47 petition in Application No. 09/693,398. The undersigned has obtained a copy of the decision granting the petition under 37 CFR 1.47, mailed August 28, 2001.

However, the Rule 47(a) petition is not grantable because the amendment to the specification is not yet acceptable. Petitioner has not filed a petition under 37 CFR 1.78(a)(6) to add a benefit claim to Provisional Application No. 60/238,846.

As stated in pertinent part in the prior decision on petition, "The original filing receipt did not include the priority claim to Provisional Application No. 60/238,846. Therefore, a petition under 37 CFR 1.78 must be filed in order to add a priority claim to Application No. 09/693,398 **and** to Provisional Application No. 60/238,846."

The currently filed amendment to the specification adds a benefit claim to both Application No. 09/693,398 (acceptable without a petition) and to Provisional Application No. 60/238,846 (**not** acceptable without a Rule 78(a)(6) petition).

A courtesy copy of this decision will be mailed to the address listed on the petition. An attorney of record, a full assignee, or all inventors may change the address of record.

Any request for reconsideration and petition under 37 CFR 1.78 should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
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Paper No. 7

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OFFICE OF PETITIONS

In re Application of :
Paul Andrys, Mark Bloom, :
Hugh J. Finlay, David Ripley, :
Terry Shie and Kevin Hoheisel :
Application No. 09/693,398 :
Filed: October 21, 2000 :
Attorney Docket No. 9785980-0089 :
Title: CONSTANT CURRENT BIASING :
CIRCUIT FOR LINEAR POWER AMPLIFIERS:

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition, filed June 18, 2001
(certificate of mailing June 13, 2001), under 37 C.F.R. §1.47.

The petition is **GRANTED**.

The above-identified application was filed on October 21, 2000, without an executed declaration and naming Paul Andrys, Mark Bloom, Hugh J. Finlay, David Ripley, Terry Shie and Kevin Hoheisel as joint inventors. Accordingly, on December 13, 2000, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, requiring an executed oath or declaration in compliance with §1.63, and a surcharge for late filing under §1.16(e). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee); paid the surcharge; and submitted a declaration executed by inventors Andrys, Finlay, Ripley and Shie on behalf of themselves and on behalf of non-signing inventors Bloom and Hoheisel. This reply was made timely by an accompanying petition for a four-month extension of time.

Rule 47 applicant asserts that status under §1.47 is proper because inventors Bloom and Hoheisel refuse to execute the application papers. A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

By declaration of attorney Gregory Gulliver, applicant set forth the facts relied on to conclude that inventors Hoheisel and Bloom are unavailable to join in the application. The following documentary evidence supported this declaration of facts: 1) a copy of the cover letters of May 10, 2001 and of June 11, 2001,

showing that the declaration and application papers had been sent via Certified Mail and Federal Express respectively, to non-signing inventor Hoheisel at his last known address; 2) a copy of the cover letters of May 3, 2001, May 23, 2001, and June 8, 2001, showing that the declaration and application papers had been sent via Certified Mail to non-signing inventor Bloom at various last known addresses, including the forwarding addresses provided by the United States Postal Service. In view of the evidence presented, it is concluded that rule 47 applicant has shown that non-signing inventor Hoheisel has refused, by his conduct, to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings) and that non-signing inventor Bloom cannot be reached to join in the application.

The declaration filed June 18, 2001, and the petition have been reviewed and found in compliance with 37 C.F.R. §1.47(a). As provided for in MPEP 409.03(a), the declaration submitted is being treated as having been signed by all the available joint inventors on behalf of the nonsigning inventors.

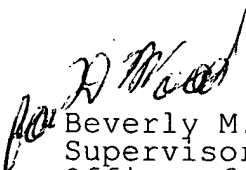
However, the added page executed by the assignee on behalf of inventors Bloom and Hoheisel is not being entered or accepted (but will be retained in the file). Filing of a declaration by an assignee under 37 CFR 1.47(b) and 35 USC 118 is permitted only where no inventor is available to make application. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). See MPEP 409.03(b).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing, including verifying the correction of the inventorship. The inventorship of record should be made consistent with the declaration filed June 18, 2001. "David Ripley" should be listed only once as an inventor, and "Hugh J. Finlay" should be added as an inventor.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy